

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NICE SYSTEMS, INC. and NICE  
SYSTEMS LTD,

*Plaintiffs,*

v.

WITNESS SYSTEMS, INC.

*Defendant.*

C.A. No. 06-311-JJF

**DEFENDANT WITNESS SYSTEMS INC.'S PROPOSED VOIR DIRE**

DATED: December 3, 2007

FISH & RICHARDSON P.C.  
William J. Marsden, Jr. (#2247)  
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ATTORNEYS FOR DEFENDANT  
WITNESS SYSTEMS, INC.

Pursuant to Fed. R. Civ. P. 47 and D. Del. L.R. 47.1(a)(2), Defendant Witness Systems, Inc. (“Witness Systems”) requests that the Court ask the following voir dire questions of the jury pool, in addition to the customary voir dire questions asked in this Court as reflected in Exhibit 1 hereto:

1. Have you, or has any member of your family, ever worked for the United States Patent and Trademark Office or the United States Department of Commerce?
2. Have you, or has any member of your family, ever obtained or attempted to obtain a U.S. patent?
3. Does your current (or last) employer own any U.S. patents, or have a license to use patents owned by someone else?
4. Do you have strong feelings, either positive or negative, about patents, the rights of patent holders, or the process by which patents are obtained?
5. Do you have strong feelings, either positive or negative, about computer science or information technology?
6. Have you ever heard of NICE Systems or Witness Systems, or any of their products?
7. Have you ever worked in a call center, such as a customer service center or an emergency response dispatch center?
8. Do you, or does any member of your household, own stocks or bonds or have any other financial interest in NICE Systems, Witness Systems, Comverse Technology or Verint Systems?

Additionally, as noted in Exhibit 15 to the Proposed Pretrial Order, Witness Systems requests that, at the Pretrial Conference, the Court address whether it will permit the parties to jointly mail, with the assistance of the clerk’s office, a jury questionnaire. To that end, Witness Systems attaches, as Exhibit 2, a proposed jury questionnaire. To the extent the Court orders the

use of the jury questionnaire, Witness Systems may amend this proposed voir dire to remove any questions that are redundant of those asked in the questionnaire.

Dated: December 3, 2007

FISH & RICHARDSON P.C.

By: /s/Kyle Wagner Compton

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Attorneys for Defendant  
Witness Systems, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of December, 2007, I electronically filed with the Clerk of Court the **DEFENDANT WITNESS SYSTEMS, INC.'S PROPOSED VOIR DIRE** using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel. In addition, the filing will also be sent via hand delivery.

Josy W. Ingersoll  
Melanie K. Sharp  
Karen E. Keller  
Mary Dugan  
Young, Conaway, Stargatt & Taylor, LLP  
1000 West Street, 17<sup>th</sup> Floor  
P.O. Box 391  
Wilmington, DE 19899

*Attorneys for Plaintiffs  
Nice Systems Ltd. and Nice Systems, Inc.*

I also certify that on December 3, 2007, I have sent by electronic mail and U.S. First Class Mail, the document(s) to the following non-registered participants:

Scott G. Lindvall  
Daniel DiNapoli  
Joseph M. Drayton  
Robert R. Laurenzi  
Kaye Scholer LLP  
425 Park Avenue  
New York, NY 10022

*Attorneys for Plaintiffs  
Nice Systems Ltd. and Nice Systems, Inc.*

/s/Kyle Wagner Compton  
Kyle Wagner Compton (#4693)

# EXHIBIT 1

**CUSTOMARY VOIR DIRE TO JURY PANEL**

Good morning, ladies and gentlemen. I am Judge Farnan, and I will be presiding over the trial for which a jury is about to be drawn in the case captioned. Briefly stated, this case is a civil action brought by plaintiffs, NICE Systems, Inc. and NICE Systems Ltd. (collectively, "NICE") against the defendant, Witness Systems, Inc. (also known as Verint Americas Inc.).

NICE is represented by Scott Lindvall, an attorney with Kaye Scholer LLP, and by Melanie Sharp, an attorney with Young, Conaway, Stargatt & Taylor, LLP. Witness Systems is represented by William Marsden and Nick Setty, attorneys with Fish & Richardson P.C.

In the light of this brief summary, I will ask the panel certain questions, the purpose of which is to: (1) enable the court to determine whether or not any prospective juror should be excused for cause; and (2) enable counsel for the parties to exercise their individual judgment with respect to peremptory challenges, that is, challenges for which no reason need be given by counsel. If any of you answer any question "yes," please stand up and, upon being recognized by the court, state your juror number. When I have concluded asking all the questions, we will call you to the bench individually to speak with you about your affirmative response or responses.

**[HAVE CLERK ADMINISTER THE OATH TO THE PANEL]**

1. Is any member of the panel personally acquainted with any officer, director, or employee of NICE, or ever done business with NICE.
2. Is any member of the panel personally acquainted with any officer, director, or employee of Witness Systems, or ever done business with Witness Systems?

3. Is any member of the panel related to, or personally acquainted with Mr. Lindvall or Ms. Sharp, NICE's attorneys, or ever been represented by one of them or by any associate or member of their law firms, Kaye Scholer LLP and Young, Conaway, Stargatt & Taylor, LLP?

4. Is any member of the panel related to, or personally acquainted with Mr. Marsden or Mr. Setty, Witness Systems' attorneys, or ever been represented by one of them or by any associate or member of their law firm, Fish & Richardson P.C.?

*(Continued on following page)*

5. Is any member of the panel related to, or personally acquainted with, any of the following individuals who might appear as witnesses in this case:

Christopher Blair	David Murray
John Bourne	Brian Napper
Thomas W. Britven	Phil Min Ni
Marc Callahan	Kenneth Pohlmann
Daniel Daly	John Edmond Richter
Phillip Dawes	Alan Roden
Barak Eilam	Matthew Rosner
William Evans	Yochai Rozenblat
David Glowny	Eyal Rudnik
John T. Goolkasian	Timothy Shadburn
Timothy Hannah	Damian Smith
Richard Heap	Daniel Spohrer
Kevin Hegebarth	John Strawn
John Henits	Robert Swick
Jeff Iannone	Nancy Treaster
James Judson	Jeff Vitter
Scott McKechnie	Joe Watson
Constantine Messologitis	Jan Carel Warfield
Kathy Miller	David Williams
Thomas Moran	Jamie Williams
Salvatore Morlando	Duane Wright
Ed Murray	Ilan Yosef

6. Does any member of the panel have any personal knowledge of this case, or have you read or heard it discussed, or have an opinion regarding it?

7. Has any member of the panel ever been a plaintiff or a defendant in a civil lawsuit?



8. Has any member of the panel ever served as a juror in a lawsuit?
9. Does any member of the panel have any education, vocational training, or work experience with or knowledge of patents, electronics, engineering, or computer science?
10. Does any member of the panel have any special disability or problem that would make it difficult or impossible for you to serve as a member of the jury in this case?
11. Does any member of the panel know of any other matter which you believe should be called to the Court's attention as having some bearing upon your qualifications or ability to sit as a juror, or which you think may prevent you from rendering a fair and impartial verdict based solely upon the evidence and my instructions as to the law?

# EXHIBIT 2

**NOTE: WITHIN FIVE DAYS, PLEASE RETURN THE JUROR INFORMATION AND QUESTIONNAIRE IN THE ENCLOSED ENVELOPE**

**JURY INFORMATION QUESTIONNAIRE**

(please print)

This questionnaire relates to a civil case between NICE Systems, Inc. and NICE Systems, Ltd. (together, “NICE”) and Witness Systems, Inc. (“Witness Systems”). Witness Systems is a wholly owned subsidiary of Verint Systems, Inc. (“Verint”), and recently changed its corporate name to Verint Americas, Inc. The case involves eight U.S. patents relating to call center recording technology.

You have been selected to be part of the pool of people from which the jury in this case will be selected. The purpose of this questionnaire is to help the parties and the Court to select a fair and impartial jury. Please answer the following questions honestly and to the best of your ability. All of the answers that you give will be kept confidential by the Court and by the parties.

1. **Your name:** \_\_\_\_\_

2. **Your home address:**

Street _____	City _____	State _____
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3. **Your age:** \_\_\_\_\_

4. **Your marital status:**

Single (never married) _____	Separated/Divorced _____
Currently married _____	Widowed _____

5. **What is your last or highest level of school completed?**

High School _____	HS Diploma? _____
Tech/Trade School _____	Area of Study? _____
College/University _____	Degree & Field? _____
Graduate School _____	Degree & Field? _____
Other (specify) _____	

6. **What was your favorite subject in school?**

English/Language _____	Social Studies _____
Science/Engineering _____	Physical Education _____
Mathematics _____	Art/Music _____
Other (specify) _____	

7. **Which best describes your current employment status?**

Employee, full-time _____	Retired _____
Employee, part-time _____	Physical Education _____
Homemaker _____	Unemployed/Looking _____
Self-employed _____	Full-time Student _____

8. **What is (or was) your title for your job, and what are (or were) your specific duties and responsibilities for your job?**

\_\_\_\_\_

**9. Who is your current (or last) employer?**

\_\_\_\_\_

**10. How long with your current (or last) employer?**

Less than 1 year \_\_\_\_\_ 5-10 years \_\_\_\_\_  
2-4 years \_\_\_\_\_ More than 10 years \_\_\_\_\_

**11. Does (did) your job involve the use of electronics?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what type of electronics? \_\_\_\_\_

**12. Have you ever served in the military or law enforcement?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what branch? \_\_\_\_\_

**13. Have you, your spouse, or a parent ever worked for the federal, state or local government?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, who, and what agency or agencies? \_\_\_\_\_

What did your family member do? \_\_\_\_\_

**14. Do you have any special training, education, or experience in the following areas? (check all that apply)**

Electronics	_____	Computer Science	_____
Physics	_____	Mathematics	_____
Engineering	_____	Chemistry	_____
Life Sciences	_____	Research/Development	_____
Patents	_____	Customer Service	_____
Law	_____	Accounting	_____
Contracts	_____	Marketing/Sales	_____

15. Please identify any other areas of special training, education, or experience here:

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16. Do your hobbies include electronics?

Yes \_\_\_\_\_ No \_\_\_\_\_

17. Do you read Scientific America, Popular Science, Popular Mechanics, or any other technical journal or magazine?

Yes \_\_\_\_\_ No \_\_\_\_\_

18. If you are married, what is (was) your spouse's occupation and by whom is (was) your spouse employed?

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19. Have you, or a relative or close friend, ever invented anything?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

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20. Are you listed as an inventor on any U.S. Patents?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

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21. Have you ever attempted to obtain a U.S. Patent?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

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**22. Do you know anyone who has obtained, or attempted to obtain, a U.S. Patent?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**23. Does your current employer (or last employer) own any U.S. Patents?**

Yes \_\_\_\_\_ No \_\_\_\_\_ Don't Know \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**24. Do you have any strong feelings or opinions about patents or the process by which patents are obtained?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**25. Have you ever served on a jury before?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**26. Have you or a family member ever filed a lawsuit or claim against someone?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**27. Have you or a family member ever been sued or had a claim filed against you?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**28. Do you have any relationship or affiliation with NICE or its employees?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**29. Do you currently, or have you ever, owned NICE stock?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**30. Do you have any relationship or affiliation with Witness Systems or its employees?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**31. Have you ever, owned Witness Systems stock?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**32. Do you have any relationship or affiliation with Verint or its employees?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**33. Do you currently, or have you ever, owned Verint stock?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**34. Had you read or heard about this case before you received your notice for jury duty?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe what you read or heard: \_\_\_\_\_

\_\_\_\_\_

**35. Do you have any relationship or affiliation with the law firm of Kaye Scholer LLP or any of its employees?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_



**36. Do you have any relationship or affiliation with the law firm of Young Conaway Stargatt & Taylor, LLP or any of its employees?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**37. Do you have any relationship with the law firm of Fish & Richardson P.C. or any of its employees?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**38. The witnesses who may appear in this case are listed below. Please circle the names of any witnesses that you know or with whom you are familiar.**

Christopher Blair	Thomas Moran
John Bourne	Salvatore Morlando
Thomas W. Britven	Ed Murray
Marc Callahan	David Murray
Daniel Daly	Brian Napper
Phillip Dawes	Phil Min Ni
Barak Eilam	Kenneth Pohlmann
William Evans	John Edmond Richter
David Glowny	Alan Roden
John T. Goolkasian	Matthew Rosner
Timothy Hannah	Yochai Rozenblat
Richard Heap	Eyal Rudnik
Kevin Hegebarth	Timothy Shadburn
John Henits	Damian Smith
Jeff Iannone	Daniel Spohrer
James Judson	John Strawn
Scott McKechnie	Robert Swick
Constantine Messologitis	Nancy Treaster
Kathy Miller	Jeff Vitter

Joe Watson  
Jan Carel Warfield  
David Williams  
Jamie Williams

Duane Wright  
Ilan Yosef

- 39. This trial is anticipated to take approximately 5 days to complete. Do you have any financial hardships, problems, or any reason why you could not serve as a juror on this case during this time period?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

- 40. Do you know of anything else which you believe should be called to the court's attention as having some bearing on your qualifications or ability to sit as a juror on this case, or which you think may prevent you from rendering a fair and impartial verdict based solely on the evidence presented and the court's instructions as to the law?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

- 41. Estimated number of miles ROUND TRIP from your home to the courthouse and the amount of time the trip takes you**

\_\_\_\_\_

**Your signature:** \_\_\_\_\_

**Date signed:** \_\_\_\_\_